

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARIAH LOPEZ,

Plaintiff,

-against-

NYC DEPARTMENT OF HOMELESS SERVICE et al.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 8/29/2023

17-cv-3014 (MKV)

ORDER GRANTING
LEAVE TO FILE MOTION
FOR ATTORNEY'S FEES

MARY KAY VYSKOCIL, United States District Judge:

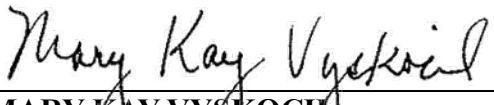
Plaintiff requests leave to file a motion for attorney's fees. In connection with that request, the Court directed the parties to file submissions addressing whether Plaintiff had standing and there was a live case or controversy between the parties when the parties reached a settlement in this case [ECF No. 264]. The Court has carefully reviewed the parties' submissions [ECF No. 266, 268]. The Court GRANTS Plaintiff leave to file a motion for attorney's fees.

The Court reserves decision on the issues of standing and mootness but is, at minimum, inclined to conclude that there was no longer a live case or controversy between the parties after they reached an agreement on Plaintiff's individual emotional distress claim on or about September 23, 2021. The Court is mindful that this case is not a class action, and the Supreme Court has rejected the "catalyst theory" as a basis for a court to award attorney's fees. *See Buckhannon Bd. & Care Home, Inc. v. W. Virginia Dep't of Health & Hum. Res.*, 532 U.S. 598, 605 (2001). As such, although Plaintiff's attorneys are free to argue that they are entitled to fees from their first appearance through November 24, 2021, they should also calculate and provide to the Court a request for fees ending on or about September 23, 2021.

Accordingly, IT IS HEREBY ORDERED that Plaintiff shall file any motion for attorney's fees by September 19, 2023. Defendant shall file any opposition by October 3, 2023. Any reply is due October 10, 2023.

SO ORDERED.

Date: August 29, 2023
New York, NY



MARY KAY VYSKOCIL
United States District Judge